

many other political subdivisions with authority to hold elections, will hold elections on November 3, 2020.

4. Based upon the number and nature of inquiries the Secretary of State's office has received from local election officials, the demands of the upcoming November 3, 2020 election have been and will continue to be greater than in past election cycles, due in part to the COVID-19 pandemic. It is my understanding that county elections administrators, county clerks, and other election officials statewide are operating at an increased capacity to meet the challenges of voting during a pandemic.

5. In August 2020, the Elections Division issued a revised version of the "Dear Voter letter." This is a letter that the Secretary of State's office provides to local election officials to be included with the mail-in ballot materials provided to voters. A true and correct copy of that letter, which local election officials will use for the 2020 general election, is attached to this declaration as Exhibit A. The Secretary of State's office provided this revised letter in August because local election officials were already beginning to print their mail-in ballot materials at that time.

6. The Secretary of State's office has taken additional steps to assist mail-in voters in the upcoming election. In July 2020, the Secretary issued Election Advisory 2020-20, which reminded local officials of how soon they could convene their Early Voting Ballot Board. A copy of that Advisory is attached to this declaration as Exhibit B. Earlier this year, the Secretary provided ballot-by-mail guidance in Advisory 2020-07, where we indicated that notices of rejected ballots should be mailed to voters as soon as possible. A copy of that Advisory is attached to this declaration as Exhibit C.

7. Any time there is a new process, local election officials will have questions and require guidance in implementing that process. Should the Court impose Plaintiffs' proposed signature-verification process, the Secretary of State's office would have to develop and conduct training on that

process. The Secretary of State's office cannot require counties to attend trainings, and in my experience, rolling out new processes shortly before an election creates an increased likelihood of inconsistency and human error, as there is inadequate time to train officials, particularly when they are focused on meeting the multitude of other demands associated with administering an election.

8. Plaintiffs' proposal calls upon the Secretary of State's office to make changes to existing forms (the Dear Voter letter, Application for Ballot by Mail (ABBM), and carrier envelope), and to develop a new form (a "Notice of Provisional Rejection"). Any time the office must develop a new form, we must ensure it complies with all applicable law and is consistent with all Election Code requirements and existing forms, and then translate it and distribute it to local elections administrators. The same process is required when we make changes to an existing form. For purposes of the November 2020 election, it is important to note that the vendors who supply counties with vote by mail materials have already printed the existing forms and the counties will be using those forms to mail their ballots out in the coming days. Counties must send out military and overseas ballots by September 19.

9. Under normal circumstances, the activities described in the previous two paragraphs would not necessarily impose a significant burden on the Secretary of State's office. If, however, a new signature-verification process had to be implemented before the November 3, 2020 general election, fulfilling these responsibilities would impose a greater burden. The Elections Division's workload is at its peak in the two months leading up to a general election, typically operating at its maximum capacity. This is compounded by the fact that the approaching election will occur during a global pandemic, which creates additional challenges. Additionally, as explained above, the vendors have already printed the existing forms and the counties have ordered their supplies for the election including these forms.

10. In connection with the 2020 general election, local elections administrators have been providing the current ABBM approved by the Secretary of State's office to voters since as early as January of this year. Some local elections administrators have already received numerous completed ABBMs from voters. Other voters who are eligible for annual ballots by mail, *see* TEX. ELEC. CODE § 86.0015, are also scheduled to receive mail-in ballots under the annual ballot by mail program. If changes to the Secretary of State-prescribed version of the ABBM were required at this point in the election cycle, some voters within the same jurisdiction would receive a different ABBM than others, and some counties would inevitably implement the revised ABBM at different times than others.

11. If the signature-verification process were eliminated entirely for the November 3, 2020 election, I anticipate confusion and many questions from local election officials. The number of mail ballots rejected because the early voting ballot board determined the signatures were not made by the same person is relatively small. However, signature comparison is an important deterrent for mail ballot fraud and ballot harvesting.

12. In connection with their statutory duties, EVCs do not have experience reviewing documentation such as "any government document with the voter's name" (but not address), "employee identification card," "student identification card," "identification card provided by a commercial establishment," "credit or debit card," "insurance plan identification card," "lease or rental agreement," "tuition statement or bill," or "identification documents issued by homeless shelters and other temporary or transitional facilities" for authenticity or to confirm a voter's identity. In addition, they do not have any source for obtaining verifiably authentic copies of these documents.

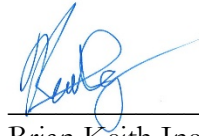
13. Individuals who have a Texas driver license number issued by the Department of Public Safety, a Texas personal identification number issued by the Department of Public Safety, and/or a social security number are not required to provide all of those numbers when they register to vote. Only the number or numbers provided by the voter will be available to the EVC.

14. If local elections administrators could not conduct their general election canvass until the tenth day after election day, I anticipate it would be more burdensome for them to meet the statutory deadline for conducting the canvass under TEX. ELEC. CODE § 67.003(b) & (c). This would also trigger different dates for recounts and election contests.

15. Members of the Early Voting Ballot Board (and Signature Verification Committee, in elections where one is established) are paid. Each additional time these groups must meet imposes additional burden and expense on each early voting clerk and the entity that funds them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 31, 2020.



Brian Keith Ingram

The State of Texas



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Ruth R. Hughes
Secretary of State

Dear Voter:

Thank you for choosing to participate in this election by voting by mail. When you vote by mail, you may take the following steps to protect your ballot and your vote.

1. **Know your rights as a voter:** You have the right to vote for the candidates of your choice. You have the right to mark your own ballot or to receive assistance with reading or marking your ballot from a person you know and trust. Your vote is secret. If a person assists you with reading or marking your ballot, it is a crime for that person to reveal how or for whom you voted. Before your ballot is counted, the signature on your mail-in ballot application will be compared with the signature on your carrier envelope to verify that both signatures were executed by the same person, unless signed by a witness.
2. **Be careful about assistance:** No one should help you with your ballot, unless you cannot read the language written on the ballot or unless you have a disability that makes you unable to write or to see. If one of these conditions applies to you, we recommend that you ask a family member or trusted friend for assistance with your ballot. The person assisting you must mark your ballot according to your instruction and **cannot suggest how you should vote**. The assistant must place his or her name, address, and signature on the carrier envelope.
3. **Mail your own ballot:** If you can't mail your own ballot, give your ballot to a family member or trusted friend to mail for you. Do not accept offers from strangers to mail your ballot.
4. **Don't wait until the last minute:** It takes time for the Post Office to deliver your ballot. Unless an exception applies, a ballot postmarked by Election Day (Tuesday, November 3, 2020) must be received by the early voting clerk no later than **5:00 pm on Wednesday, November 4, 2020**. If there is no postmark, the early voting clerk must receive these ballots by **7:00 pm on Election Day**.

Exceptions: Ballots sent by **non-military and any military voters** casting ballots from **outside of the United States**, who submitted a regular state application for a ballot by mail (not a Federal Postcard Application) **AND** whose ballots are postmarked by 7:00 pm on Election Day must be received by the early voting clerk no later than **Monday, November 9, 2020**. Ballots submitted by military voters and their dependents who submitted a Federal Postcard Application must be received by the early voting clerk no later than **Monday, November 9, 2020**; **no postmark** is necessary on this category of ballots.

NOTE: You may have received ballots and balloting materials from more than one political subdivision. If so, please be very sure to check the name of the election on the top of the ballot before you seal it in the ballot secrecy envelope, and match it to the name of the election that appears on the bottom, right side of the back of the carrier envelope, to make sure that you are returning each ballot in the correct carrier envelope for that ballot. This will ensure that each ballot is delivered to the proper early voting clerk. **DO NOT** put more than one ballot in the carrier envelope.

If anyone attempts to pressure or intimidate you, we urge you to report this to your county election office, your district attorney, or our office at 1-800-252-VOTE (8683).

Early voting in person begins October 13, 2020 and continues through October 30, 2020. Election Day is November 3, 2020. You may contact your county election office for the locations and hours of operation for your early voting sites. If you change your mind about voting by mail and would prefer to vote in person, you must take your mail ballot with you and cancel it at the polling place. You may then vote in person, either during the early voting period or on Election Day.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruth R. Hughes".

Ruth R. Hughes
Secretary of State

EXHIBIT 2

EXHIBIT A



Texas Secretary of State
Ruth R. Hughs

COVID-19 - As recommended precautions continue to increase for COVID-19, the James E. Rudder Building will be closed to visitors and customers beginning Wednesday, March 18, 2020. The Office of the Secretary of State is committed to continuing to provide services to ensure business and public filings remain available 24/7 through our online business service, [SOSDirect](#) or use the new [SOSUpload](#). Thank you in advance for your patience during this difficult time. [Information on Testing Sites is now available.](#)

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Election Advisory No. 2020-20

To: County Clerks/Elections Administrators and County Chairs

From: Keith Ingram, Director of Elections

Date: July 2, 2020

RE: Processing and Counting Early Voting By Mail Ballots

Introduction

The purpose of this advisory is to assist election officials in preparing for processing and counting early voting by mail ballots. A number of counties have reported receiving an increased number of applications for a ballot by mail. This will likely result in a larger number of mail ballots that must be reviewed by the Early Voting Ballot Board ("EVBB"). The ballots will then be counted by the EVBB or at the central counting station, whichever is applicable in that county.

The Secretary of State's office strongly recommends that counties plan for an increase in mail ballots by convening their EVBB as early as possible, and as permitted by the Texas Election Code, to ensure ballots are processed and counted, and the results are tabulated, in a timely manner.

Qualifying Mail Ballots by the Early Voting Ballot Board

Counties with a population of 100,000 or more

For counties with a population of 100,000 or more, or entities having joint elections with such a county, the early voting ballot board may convene to begin processing and qualifying mail ballots by the 12th day before election day. (Section 87.0241). The early voting clerk shall continuously post notice for 24 hours

EXHIBIT 2

EXHIBIT B

preceding each delivery of voting materials made before the polls open on election day. (Section 87.0222(b)). At least 24 hours before each delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made. (Section 87.0222(c)).

Counties with a population of less than 100,000

For counties with a population of less than 100,000, the early voting ballot board may convene to begin processing and qualifying mail ballots after the polls close on the last day of in-person early voting. (Sections 87.024-87.0241). The early voting clerk shall continuously post notice for 24 hours preceding each delivery of voting materials that is to be made before the time for opening the polls on election day. (Section 87.0222(b)). At least 24 hours before each delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made. (Section 87.0222(c)).

Activities included in Qualifying and Processing

When the early voting ballot board meets to qualify ballots, they shall determine whether to accept the voter's ballot. A ballot may only be accepted if (1) the carrier envelope has been properly executed; (2) neither the voter's signature on the ballot application nor the signature on the carrier envelope is determined to have been executed by a person other than the voter, unless signed by a witness; (3) the voter's ballot application states a legal ground for early voting by mail; (4) the voter is registered to vote; (5) the ballot was mailed to the applicable address; and (6) if required, the statement of residence was included and properly completed. (Section 87.041). For more details about the qualifying process, please see our [Early Voting Ballot Board Handbook](#).

For ballots that are accepted, the early voting ballot board will enter the voter's name on the poll list and separate the ballot from the carrier envelope. The separated ballots will be counted by the ballot board or the central counting station, whichever is applicable for the county.

Scanning of Mail Ballots

For those counties that tabulate mail ballots with a scanner, if the county's certified scanning device is capable of scanning the ballots without tabulating the results, the county may begin scanning the ballots during the time that a county may process or qualify mail ballots. This should be done only by authorized early voting ballot board or central counting station personnel. Poll watchers may be present during these activities. **NOTE:** Results may not be released until after the polls close on election day.

For questions as to whether your scanner is capable of scanning ballots without producing a tabulation, please contact your voting system vendor or our office for more details.

Counting of Mail Ballots

Ballots voted by mail may be counted by either the early voting ballot board or the central counting station, as determined by the county election officer.

Counties with a population of 100,000 or more

For counties with a population of 100,000 or more, or entities that are having joint elections with such a county, the county may begin **counting** mail ballots after the polls close on the last day of in-person early voting. (Section 87.0241). Results may not be released until the polls close on election day.

Counties with a population of less than 100,000

For counties with a population of less than 100,000 mail ballots **may not be counted** until the polls open on election day. (Section 87.0241). Results may not be released until the polls close on election day.

Mail Ballot Results

All mail ballots received by 7:00 p.m. on election day must be qualified by the early voting ballot board and, if accepted, counted on election day. Early voting clerks should arrange to check their mail at 7:00 p.m. to ensure that any ballots received are appropriately processed on election night. **These ballots will be included in any results that are released on election night.**

Later Arriving Mail Ballots

There are certain ballots that may arrive after election day, but can still be qualified and counted. Late ballots fall into three categories:

- Ballots Received by 5:00 p.m. on the next business day after election day with a postmark of 7:00 p.m. on election day or before, if sent by a civilian or military voter using an ABBM and voting within the United States. **If there is no postmark, then it cannot be counted.** (Section 86.007(a)).
- Ballots Received by the 5th day after election day from an overseas civilian voter (ABBM or FPCA) or a military voter (using an ABBM and voting from overseas) with a postmark of 7:00 p.m. on election day or before. **If there is no postmark, then it cannot be counted.** (Section 86.007(d)).
- Ballots Received by the 6th day after election day from a military voter using an FPCA. **No postmark is necessary.** Voter can be domestic or overseas. (Section 101.057).

All of these ballots must be qualified by the early voting ballot board and subsequently counted by the early voting ballot board or central counting station, whichever is applicable. **The results from these accepted mail ballots must be added to the canvassed vote totals.**

An increase in mail ballots may result in a larger number of ballots counted after election day. A large number of outstanding mail ballots may affect the ability to determine outcomes for close races on election night. Please be sure to communicate with your voters, candidates, and workers that results are not final until they are canvassed after election night, as canvassed results include eligible late arriving mail ballots and provisional votes.

KI:CA



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Election Advisory No. 2020-07

To: County Clerks/Elections Administrators

From: Keith Ingram, Director of Elections

A handwritten signature in blue ink, appearing to read "Keith", is placed over the "From:" line.

Date: February 11, 2020

RE: Ballot by Mail Reminders

The purpose of this advisory is to remind county election officials of certain steps that must be taken with respect to the processing and rejection of mail ballots.

Timing of Processing Mail Ballots

Pursuant to Section 87.0241 of the Texas Election Code, the early voting ballot board may determine whether to accept early voting ballots voted by mail at any time after the ballots are delivered to the board. (Sec. 87.0241(a)).

The early voting ballot board may begin to count early voting ballots (1) when the polls open on election day; or (2) at the end of the early voting period, in the case of an election conducted by an authority of a county with a population of 100,000 or more or an election conducted jointly with such a county. (Sec. 87.0241(b)).

Notice of Rejected Ballot

Section 87.0431 of the Texas Election Code outlines certain requirements for providing a voter with notice of a rejected mail ballot. If the early voting ballot board rejects a voter's ballot, the presiding judge of the early voting ballot board must notify the voter in writing of the reason for the rejection. This notice must be sent to the voter, at the residence address listed on the ballot by mail application, no later than the 10th day after election day. However, **our office recommends mailing notices of rejected ballots to affected voters as soon as possible.** For voters who requested a mail ballot with a Federal Postcard Application (FPCA), and receive their balloting materials via e-mail, the presiding judge shall also provide notice of the rejected ballot to the e-mail address to which the ballot was sent.

In accordance with Section 87.0431, the Secretary of State has prescribed a form for this purpose ([Notice of Rejected Ballot](#), (PDF)). We are issuing a revised version of the Notice of Rejected Ballot along with this advisory. The revised notice includes an additional sentence advising the voter: "If you believe that your mail ballot was rejected in error, please contact your early voting clerk to determine what remedies may be available to you."

EXHIBIT 2

EXHIBIT C

Resolution of Incorrect Determination by Early Voting Ballot Board

As a reminder, if a county election officer determines that a ballot was incorrectly rejected or accepted by the early voting ballot board before the time set for convening the canvassing authority, the county election officer may petition a district court for injunctive or other relief as the court determines appropriate. (Sec. 87.127(a)).

In an election ordered by the governor or the county judge, the county election officer must confer with and establish the agreement of the county chair of each political party before petitioning the district court. (Sec. 87.127(b)).

Please contact us at 1-800-252-VOTE (8683) or at elections@sos.texas.gov if you have any questions.

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